In the High Court of Judicature at Madras

Dated:04.11.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM

Civil Revision Petition (PD) No.187 of 2004
and C.M.P.No.2080 of 2004
..

Sardarmall .. Petitioner / Plaintiff

vs.

The Corporation of Chennai
rep. by its Commissioner
Ripon Buildings
Chennai 600 003. .. Respondent / Defendant

Revision Petition filed under Article 227 of the Constitution of India against the order dated 30.12.2003 made in I.A.No.18575 of 2003 in O.S.No.5178 of 2000 on the file of XI Assistant Judge, City Civil Court, Chennai.

For petitioner : Mr. P. Wilson

For respondent : Mr. V. Bharathidasan
..
ORDER

The above revision is directed against the order of the learned XI Assistant Judge, City Civil Court, Chennai dated 30.12.2003 made in I.A.No.18575 of 2003 in O.S.No.5178 of 2000, in and by which the learned Judge, dismissed the said application filed by the plaintiff under Order XI Rule 14 read with Section 151 of the Code of Civil Procedure for production of the sanctioned plan pertaining to the suit property.

2. Heard both sides.

3. According to the petitioner / plaintiff, he is the owner of the suit property and while he was making construction, the respondent, viz., the Commissioner, Corporation of Chennai, issued a notice under Sections 236 and 379-A of Madras City Municipal Corporation Act (in short MCMC Act"), alleging that he is constructing building without obtaining sanction, which necessitated him to file the present suit. It is also the case of the petitioner

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that only after obtaining approved plan vide B.A.No.2/64 dated 27.01.1964, the plaintiff started the construction. It is his further claim that he lost the original sanctioned plan; hence, he filed I.A.No.18575 of 2003 for production of the said plan for proper appreciation and disposal of the suit. In order to strengthen his case, the learned counsel for the petitioner has brought to my notice that before filing the said suit, the petitioner/plaintiff sent a representation dated 21.02.1989 to the Commissioner, Corporation of Chennai with a request to issue copy of the plan on the ground that the original is missing and he is ready to pay charges for the same. The said representation is available at page 19 of the typed set of papers. Pursuant to the said request, the Assistant Executive Engineer, Town Planning/N, Works Department, Corporation of Madras in letter dated 07.11.1989, requested the petitioner / plaintiff to pay necessary charges for the same. Pursuant to the same, the petitioner paid a sum of Rs.33/- as demanded, through Indian Overseas Bank, Corporation of Madras Extension Counter, Chennai-3. It is the further grievance of the petitioner that in spite of the compliance of the request, since he was not furnished with a copy , he issued a legal notice and followed by the present suit. All those details are available in the typed set of papers vide pages 20 to 25.

4. On going through the above materials and in view of the assertion that the petitioner secured sanctioned plan from the Corporation and the same is not available, I am of the view that the petitioner is entitled to copy of the same. In view of the fact that the request was though initially responded by the Corporation, not complied with by furnishing copy of the sanctioned plan. In such circumstances, I am of the view that the petitioner / plaintiff is justified in seeking appropriate direction to the Commissioner, Corporation of Chennai for production of the sanctioned plan pertaining to the suit property. The Court below has committed an error in dismissing the said petition. The order dated 30.12.2003 made in I.A.No.18575 of 2003 in O.S.No.5189 of 2000 is set aside and direction is issued to the respondent / defendant for production of either original or authenticated copy of the sanctioned plan vide B.A.No.2/64 dated 27.01.1964 before the Court below within a period of two months from the date of receipt of a copy of this order. The civil revision petition is allowed to the extent mentioned above. No costs. Consequently, connected CMP., is closed.

kh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

The Registrar
City Civil Court
Chennai.

ONE CC TO MR.P. WILSON, ADVOCATE SR 52177

ONE CC TO MR.V. BHARATHIDASAN, ADVOCATE SR 52620

Order in
C.R.P.(PD)No.187/04

SR(CO)

BP/30.11

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